

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

UNITED STATES OF AMERICA, et	:	CASE NO.: C-1-02-107
al.,	:	
	:	
Plaintiffs,	:	JUDGE S. ARTHUR SPIEGEL
	:	MAGISTRATE HOGAN
v.	:	
	:	RESPONSE TO PATMAN AND
	:	HARRIS REQUESTS FOR
	:	REVIEW
BOARD OF HAMILTON COUNTY	:	
COMMISSIONERS, et al.	:	
	:	
Defendants.	:	

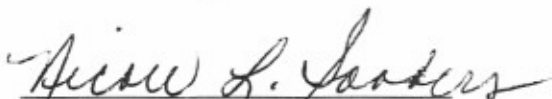
The City and County Defendants (“MSD”) respond to Ms. Victoria Patman and Mario Harris’s Motion for Review (Doc #201) as follows:

1. Ms. Victoria Patman and Mario Harris submitted water in basement claim on January 7, 2008.
2. The MSD investigated Ms. Putnam's and Mr. Harris's claim through the City of Cincinnati claims department. The Claims Administrator is Shirley Lenzly.
3. Ms. Lenzly denied the water in the basement because it was determined the back-up was caused by prophylactics and sanitary napkins within the sewer. (Attached Complaint MSD Form Exhibit A)
4. MSD is will repair or reconstruction of the part of a house lateral in the right of way that fails because of a broken or collapsed pipe pursuant to section 1207 of the Rules and Regulations of MSD. (Attached as Exhibit B)
5. Ms. Patman and Mr. Harris own the property serviced by the lateral and as such is responsible for the lateral's maintenance.

Accordingly, the MSD defendants request that the Court separately review the claimed damages, and that thereafter the Court affirm City's determination.

Respectfully submitted,

Patricia M. King (0061464)
Interim City Solicitor


Nicole L. Sanders (0077186)
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Trial attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May28, 2008 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.


Nicole L. Sanders (0077186)
Assistant City Solicitor

Date: 01/07/08

Time: 13:16

Received: ERE

COMPLAINT FORM

CALLER INFORMATION

Name: MARIO HARRIS

Agency: Private

Address: 1252 ROSS AVE CINCIN

Business Phone: 498-3766

Home Phone: 240-6908

PROBLEM LOCATION

Address: 1252 ROSS AV

City/Township: CINC

Nearest Intersection: ROSS AV & MAYFIELD AV

EAST P

Detailed Location Information: USNG 1M:GJ0984432436

Condition Reported: Water - In - Basement

Comments: Water - In - Basement SEE ACTION COMMENTS

Current Condition: Water - In - Basement

ON SITE INSPECTION

Date: 01/07/08

Unit Number: 441

Dispatch Time: 16:00

Arrival Time: 16:42

Completion Time: 19:13

Condition Found: No Main Sewer Trouble

Action Taken:

Comments: WIBNow:Y SRC:Fldrain Freq:1st P:N NO PRIOR OR PLUMBER, RUN AFTER 5PM.
CK'D 18'' ML U/S MH 25005011 & D/S 25012027 & 25012028. NSMT & NBUIMH. HAD TO CHISEL
OFF BASEMENT FLOOR C/O. REPLACED W/ A 3.5'' THREADED CAP. COULDN'T GET 3.5'', 2.5'' OR
NAKED CHAIN TO GO. CHISELED OFF 3.5'' BRASS CAP ON STACK C/O. REPLACED W/ A 3.5''
PLUG. RODDED 135' TO ML. COULDN'T HEAR CHAINS IN MH 425012027. HIT A ROUGH SPOT AT
105' IN ROW. NO OTHER OBSTRUCTIONS. SEWAGE IS STILL HOLDING IN F/ DRAINS IN BASEMENT.
A/C THEY HAVE AN INTERNAL PROBLEM. PULLED BACK TAMPONS & CONDOMES. JOE HOMER 1/7/08

Job Order:

Last Referral:

Last Referral Date: 01/15/08

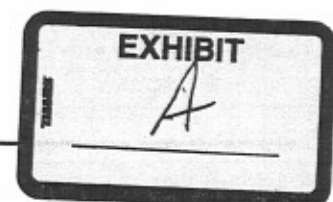
For:

Final Disposition

By: WITHERS

Date: 01/15/08

Responsibility Of: Private



Section 1206

In the development of residential subdivisions with sanitary sewers, all lots shall be served by connections to the sanitary sewer system either by gravity or by means of a pump or ejector. No individual disposal devices will be permitted.

In all buildings in which any building drain is too low to permit gravity flow to the sanitary sewer system, any sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Section 1207

The owner of the premises served by a sewer shall be responsible for the maintenance and cleaning of the building sewer from the building to the point of connection with the public local sewer and for the maintenance, operation, cleaning, repair, and reconstruction of the building sewer from the building to the property line or point of connection in a public easement. Repair and reconstruction of the building sewer in a public right-of-way shall be the responsibility of the Department. It shall be the responsibility of the owner or his agent to establish, by means of a valid sewer cleaner contractor's receipt, that such repair or reconstruction is the responsibility of the Department. The Department shall have the right to verify the sewer cleaner's finding prior to beginning repair or reconstruction. A proper cleanout must be in place prior to such operation by the Department.

Section 1208 (Changed - 1988)

Permits to connect building sewers, to open, or alter any public/ private sanitary or combined sewer or appurtenance will be issued only to a person engaged in the business of sewer construction or tapping and possessing a valid license and bond from the Department.

Section 1209

The person to whom a connection permit is issued will be held responsible for the proper installation of the building sewer in accordance with these Rules and Regulations, subject, however to the condition that he or it holds the Department harmless from any loss or damage.

Section 1210

The person to whom a connection permit is issued shall be responsible for obtaining any additional required permits to open cut any street, road or highway, from the appropriate public authority having jurisdiction over such street, road or highway, and shall comply with all conditions required by such additional permits.

Section 1211

There shall be two (2) types of building sewer connection permits: (1) for residential and commercial service; and (2) for service to buildings discharging industrial wastes. In either case, the owner

EXHIBIT

B